

Message to the Congress Reporting on the National Emergency With Respect to Export Control Regulations September 25, 1992

To the Congress of the United States:

1. On September 30, 1990, in Executive Order No. 12730, I declared a national emergency under the International Emergency Economic Powers Act (IEEPA) (50 U.S.C. 1701, *et seq.*) to deal with the threat to the national security and foreign policy of the United States caused by the lapse of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2401, *et seq.*), and the system of controls maintained under that Act. In that order, I continued in effect, to the extent permitted by law, the provisions of the Export Administration Act of 1979, as amended, the Export Administration Regulations (15 C.F.R. 768, *et seq.* (1991)), and the delegations of authority set forth in Executive Order No. 12002 of July 7, 1977, Executive Order No. 12214 of May 2, 1980, and Executive Order No. 12131 of May 4, 1979, as amended by Executive Order No. 12551 of February 21, 1986.

2. I issued Executive Order No. 12730 pursuant to the authority vested in me as President by the Constitution and laws of the United States, including IEEPA, the National Emergencies Act (NEA) (50 U.S.C. 1601, *et seq.*), and section 301 of title 3 of the United States Code. At that time, I also submitted a report to the Congress pursuant to section 204(b) of IEEPA (50 U.S.C. 1703(b)). Section 204 of IEEPA requires follow-up reports, with respect to actions or changes, to be submitted every 6 months. Additionally, section 401(c) of the NEA requires that the President, within 90 days after the end of each 6-month period following a declaration of a national emergency, report to the Congress on the total expenditures directly attributable to that declaration. This report, covering the 6-month period from April 1, 1992, to September 30, 1992, is submitted in compliance with these requirements.

3. Since the issuance of Executive Order No. 12730, the Department of Commerce has continued to administer and enforce the system of export controls, including

antiboycott provisions, contained in the Export Administration Regulations. In administering these controls, the Department has acted under a policy of conforming actions under Executive Order No. 12730 to those required under the Export Administration Act, insofar as appropriate.

4. Since my last report to the Congress, there have been several significant developments in the area of export controls:

—As the nations of Central Europe and the former Soviet Union continue their progress towards democracy and market economies, United States Government experts have been working with officials of Albania, Bulgaria, the Czech and Slovak Federal Republic, Hungary, Poland, Romania, the Baltic States, and many republics of the former Soviet Union to implement and strengthen their export control systems, including pre-license inspections and post-shipment verifications. These developments will facilitate enhanced trade in high technology items and other commodities in the region, while helping to prevent unauthorized shipments or uses of such items. At the same time, we have been engaged in activities with the Central and Eastern European countries to assist in the prevention of proliferation of weapons of mass destruction and corresponding technology.

A significant result of these activities was the removal of Hungary from the list of proscribed destinations to the list of free world destinations on May 1, 1992, thereby liberalizing export controls with respect to Hungary and easing the burden on exporters dealing with Hungary. This action should facilitate a significant increase in exports and reexports to Hungary. (57 F.R. 19805, May 8, 1992.)

—Working diligently with our Coordinating Committee (COCOM) partners to streamline multilateral national security controls, we are pleased to report the following important developments:

—Elimination of nearly all individual license requirements for exports to

- COCOM and cooperating countries, enabling exporters to ship items without prior agency approval. (57 F.R. 18819, May 1, 1992.)
- Elimination of most U.S. reexport authorizations for U.S.-origin goods going from COCOM and cooperating countries to most third countries, except when destined to a country or region of proliferation concern. (57 F.R. 18817, May 1, 1992.)
 - Liberalized licensing requirements on exports to Hong Kong and New Zealand, following their designation as COCOM cooperating destinations. (57 F.R. 19334, May 5, 1992.)
 - At the June 1992 High-Level Meeting in Paris, in response to a proposal from former Secretary of State James Baker, our COCOM allies agreed to establish a new “COCOM Cooperation Forum” (CCF) to include the 17 members of COCOM, the newly independent states of the former Soviet Union (NIS), and most recently other Central and Eastern European nations. The CCF hopes to engage these nations in further establishing controls for sensitive goods and technologies, and to provide an impetus for wider access by those countries to controlled items. The first High-Level Meeting of the CCF is scheduled for late November of this year.
 - Also at the June High-Level Meeting, the COCOM partners agreed to significantly liberalize export controls on telecommunications exports to the NIS, which should facilitate rapid and reliable telecommunications between the NIS and the West, as well as modern, cost-effective domestic telecommunications systems.
 - The Department of Commerce also recently revised the regulations governing the Distribution License procedure, thereby allowing expanded use of this special license and eliminating many current prior-approval requirements. The Distribution License, which permits multiple exports of controlled items to approved consignees in eligible countries without prior review of individual transactions, is used by approximately 125 of the largest exporters to export computers and other items to many countries. (57 F.R. 18815, May 1, 1992.)
- In my last report, I noted that the Department of Commerce issued a conforming regulation to bring the Commerce Control List (CCL) into line with special country- and commodity-based controls. In this action, the transfer from the State Department to the Commerce Department of licensing jurisdiction over certain civil aircraft inertial navigation equipment was implemented. (57 F.R. 4553, February 6, 1992.) This transfer of items formerly included in the State Department’s U.S. Munitions List (USML) to the CCL is ongoing. The majority of overlaps between the USML and the CCL were eliminated in the April 25, 1992, amendment to the USML. (57 F.R. 15227.) In the future, certain commercial telecommunications satellites, imaging technologies, and navigational technologies will be removed from the USML and added to the CCL.
- We are continuing our efforts to address the threat to the national security and foreign policy interests of the United States posed by the spread of weapons of mass destruction and missile delivery systems. As such, we have been working with our major trading partners to strengthen export controls over goods, technology, and other forms of assistance that can contribute to the spread of nuclear, chemical, and biological weapons and missile systems.
- At the June 1992 meeting of the 22-nation Australia Group (AG), a consortium of nations that seeks to prevent the proliferation of chemical and biological weapons (CBW), the delegates agreed to establish a refined common control list for exports of dual-use biological equipment and to increase from 50 to 54 the number of precursor chemicals subject to control. The Commerce Department is in the process of publishing rules reflecting the changes to conform the U.S. list to the AG list.
 - The United States has also been a key participant in the ongoing Chemical Weapons Convention (CWC) negotiations in Geneva, Switzerland. On September 3 the Conference on Disarmament, which is the drafting body for the CWC, forwarded to the United Na-

- tions General Assembly, a draft CWC, which includes a prohibition on the design, development, production, or use of chemical weapons, as well as destruction of chemical weapons production facilities and stockpiles. The United States strongly supports these provisions.
- In April, the 27-nation Nuclear Suppliers Group (NSG), in which the United States participates, formally established a multilateral regime to control nuclear-related dual-use items similar to the nuclear-referral list currently administered by the Department of Commerce. The Department is working to publish a rule to conform the U.S. list with the NSG list.
 - At the June-July plenary session in Oslo, the Missile Technology Control Regime (MTCR) members welcomed Greece, Ireland, Portugal, and Switzerland to their ranks, bringing the total membership to 22 nations. The MTCR members also agreed to amend the Guidelines and Equipment and Technology Annex to ensure adequate control of delivery systems for *all* types of weapons of mass destruction—including chemical and biological weapons, as well as nuclear weapons. The MTCR partners expect to have the revised Guidelines in effect by the end of October 1992.
 - The Commerce Department has also participated in implementation of missile technology sanctions imposed by the Department of State under Title XVII of the National Defense Authorization Act for FY 1991 (Public Law 101-510). Sanctions, which include denial of export licenses, have been imposed on the following foreign entities: ARMSCOR (South Africa), Changgwang Credit Corporation (North Korea), China Great Wall Industry Corporation (PRC), China Precision Machinery Import-Export Corporation (PRC), Glavkosmos (Russia), Indian Space Research Organization (ISRO-India), Lyongaksan Machineries and Equipment Export Corporation (North Korea), Ministry of Defense (Syria), Ministry of Defense and Armed Forces Logistics (Iran), Space and Upper Atmosphere Research Commission (SUPARCO-Pakistan), and Syrian Scientific Research Center *a/k/a* Centre d'Etudes et Recherches Scientifique (Syria). The sanctions imposed in June 1991 on the two Chinese entities were recently waived.
 - In the area of supercomputers we have established a supercomputer safeguard regime with Japan, and we are negotiating with our European trading partners to expand this regime. Under the provisions published in May, exports of supercomputers to Canada do not require a license, exports to Japan may be made under General License GCT, and both Distribution Licenses and individual validated licenses are available for exports to many Western European destinations with only minimum safeguards. Supercomputer exports involve sensitive national security and foreign policy interests, such as cryptology, strategic defense, and submarine warfare; the multilateral safeguard regime is therefore intended to establish uniform and effective international policies and procedures to protect supercomputers from unauthorized end-uses and end-users, without unnecessarily burdening U.S. exporters. (57 F.R. 20963, May 18, 1992.)
 - At the beginning of the year, I announced the lifting of the U.S. embargo against Cambodia in response to the United Nations-directed comprehensive political settlement of the decades-long Cambodian conflict. In April the Commerce Department issued a rule removing Cambodia from the list of embargoed countries and revising licensing policies and procedures affecting Cambodia and Laos to allow these countries to receive general license treatment for exports and reexports of many items. (57 F.R. 11576, April 6, 1992.)
 - More recently, the Department issued a rule permitting commercial exports of humanitarian goods—including food, building materials, and health and educational items to Vietnam, under a new

general license. This liberalization in export control policy is consistent with the step-by-step process for normalizing relations with Vietnam, and should further reduce paperwork and expand trade to benefit America's exporters. (57 F.R. 31658, July 17, 1992.)

—Finally, our enforcement efforts are proceeding apace as we continue to enforce export controls vigorously. The export control provisions of the Export Administration Regulations are enforced jointly by the Commerce Department's Office of Export Enforcement and the U.S. Customs Service. Both of these agencies investigate allegations and, where appropriate, refer them for criminal prosecution by the Justice Department. Additionally, the Commerce Department has continued its practice of imposing significant administrative sanctions for violations, including civil penalties and denial of export privileges.

—Commerce's Office of Export Enforcement (OEE) has continued its vital preventive programs such as pre-license checks and post-shipment verifications, export license review, and on-site verification visits by teams of enforcement officers in many countries. The OEE has also continued its outreach to the business community to assist exporters with their compliance programs and to solicit their help in OEE's enforcement effort. The OEE has initiated its well-received Business Executive Enforcement Team (BEET) to enhance interaction between the regulators and the regulated.

—The OEE has also initiated a new program—the Strategic and Non-proliferation Enforcement Program (SNEP)—which targets critical enforcement resources on exports to countries of concern in the Middle East and elsewhere.

—In one of many successful enforcement efforts, following his plea of guilty to several counts of an indictment charging him with violating U.S. export control laws, Don Danesh, an Iranian national doing business in the United States, was sentenced to serve 12 months in jail and placed on supervised probation for an additional 36 months. Danesh's associate, Ray Amiri, also an Iranian national

doing business in the United States, is expected to be sentenced in the near future following his guilty plea. In developments related to the criminal case, on May 29, 1992, the Acting Assistant Secretary for Export Enforcement renewed an order temporarily denying the export privileges of Amiri, his company, and Danesh. (57 F.R. 24242, June 8, 1992.)

—In the last 6 months, the Department has continued to enforce the antiboycott law vigorously. The Office of Antiboycott Compliance (OAC) is fully staffed with 30 full-time employees, and OAC has doubled the level of civil penalties it seeks to impose within the statutory \$10,000 per violation maximum. The total dollar amount of civil penalties imposed so far in fiscal year 1992 approaches \$2 million, the second largest amount in the history of the program.

—During this 6-month reporting period, significant civil penalties were assessed against several companies in antiboycott compliance cases. Among them, by Order of May 19, 1992, L.A. Gear, Inc., was assessed a civil penalty of \$404,000 to settle allegations that the company complied with boycott requests from a customer in Kuwait and that it failed to report its receipt of boycott requests. On August 12, 1992, the Bank of Baroda, one of India's largest banks, was assessed a civil penalty of \$502,000 to settle allegations that it implemented letters of credit containing prohibited boycott conditions and that it failed to report its receipt of boycott requests. After reviewing data related to the financial condition of the bank, the Department agreed to suspend payment of \$227,000 of the \$502,000 civil penalty.

5. The expenses incurred by the Federal Government in the 6-month period from April 1, 1992, to September 30, 1992, that are directly attributable to the exercise of authorities conferred by the declaration of a national emergency with respect to export controls were largely centered in the Department of Commerce, Bureau of Export

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Administration. Expenditures by the Department of Commerce are anticipated to be \$19,186 million, most of which represents program operating costs, wage and salary costs for Federal personnel, and overhead expenses.

6. The unrestricted access of foreign parties to U.S. goods, technology, and technical data, and the existence of certain boycott practices of foreign nations, in light of the expiration of the Export Administration Act of 1979, continue to constitute an unusual

and extraordinary threat to the national security, foreign policy, and economy of the United States. I shall continue to exercise the powers at my disposal to retain the export control system, including the antiboycott provisions, and will continue to report periodically to the Congress.

GEORGE BUSH

The White House,
September 25, 1992.

Notice on Continuation of Emergency Regarding Export Control Regulations

September 25, 1992

On September 30, 1990, consistent with the authority provided me under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.*), I issued Executive Order No. 12730. In that order, I declared a national emergency with respect to the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States in light of the expiration of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2401, *et seq.*). Because the Export Administration Act has not been renewed by the Congress, the national emergency declared on September 30, 1990, and extended on September 26, 1991, must continue in effect beyond September 30, 1992. Therefore, in accordance with section 202(d) of the Na-

tional Emergencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency in order to deal with the threat posed by the unrestricted access of foreign parties to United States goods, technology, and technical data and by the existence of certain boycott practices of foreign nations.

This notice shall be published in the *Federal Register* and transmitted to the Congress.

GEORGE BUSH

The White House,
September 25, 1992.

[Filed with the Office of the Federal Register,
12:16 p.m., September 25, 1992]

Message to the Congress on Continuation of the National Emergency With Respect to Export Control Regulations

September 25, 1992

To the Congress of the United States:

On September 30, 1990, in light of the expiration of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2401, *et seq.*), I issued Executive Order No. 12730, declaring a national emergency and continuing the system of export regulation,

including antiboycott provisions, under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.*). Under section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), the national emergency terminates on each anniversary of its declaration unless I publish in the *Federal Register*